

TIME-BARRED DEBTS

A new practice has arisen in the debt collection industry. Old, charged off debt is packaged and sold to other financial entities for as little as a penny or less for a dollar of old debt. These debts are old and often barred by the statute of limitations which limits the period of time during which a lawsuit may be filed to collect the debt.

Thus, a time-barred debt is one which can no longer be collected by legal means due to the passage of time, e.g. - lawsuits, wage garnishment, liens on real estate, etc. These buyers of old debts are "debt collectors" covered by the Fair Debt Collection Practices Act.

FAIR DEBT COLLECTION PRACTICES ACT

The federal law, the Fair Debt Collection Practices Act ("FDCPA"), protects consumers from abusive or harassing, false or misleading, and/or unfair practices of **third party debt collectors or attorneys attempting to collect debts incurred for personal, family, or household purposes.** Business or agricultural debts are not covered by the FDCPA.

The FDCPA does not apply to creditors when they obtained the debt before default. However, the buyers of old debt obtained the obligation after it had fallen into default; therefore, they are debt collectors covered by the FDCPA.

OFFER OF NEW CREDIT CARD

Sometimes the collectors of old debt offer a new credit card if the consumer will transfer part or all of the old debt to the credit card; other times they simply request payment. **These collectors of old debt often fail to inform the consumer that if he or she transfers part or all of the balance of the old debt to the new credit card, acknowledges the old debt, or makes payment toward the old debt, that debt is renewed and the owner of that debt may once again sue and use other legal remedies to collect the debt.**

The collector of old debt may use this technique to trick the consumer into renewing the old debt. This may be an illegal collection practice in violation of the FDCPA.

Courts have held that a lawsuit filed to collect a time-barred debt violates the FDCPA. However, the collector in the above example does not sue, it merely sends a letter asking the consumer to transfer the balance of his or her old debt to a new credit card.

DECEPTIVE AND MISLEADING ASPECT

The deceptive and misleading aspect of this practice is the failure of the collector to inform the consumer that if he or she transfers part or all of the balance of the old debt to the new credit card, acknowledges the old debt, or makes payment toward the old debt, that debt is renewed and the consumer may once again be sued (and use other legal remedies employed) to collect that old debt.

REMEMBER....If you have an old debt which is time-barred and cannot be collected by lawsuits, wage garnishment, liens on real estate, etc., and you transfer the balance, acknowledge the old debt, or pay on the debt, it is renewed and can be collected by the above legal means.

The Indiana Department of Financial Institutions, Division of Consumer Credit has many other credit related brochures available, such as:

Answers to Credit Problems
Applying for Credit
At Home Shopping Rights
Bankruptcy Facts
Buried in Debt
Car Financing Scams
Charge Card Fraud
Choosing A Credit Card
Co-Signing
Credit and Divorce
Credit and Older Consumers
Deep in Debt?
Equal Credit Opportunity
Fair Credit Reporting
Fair Debt Collection
Gold Cards
Hang up on Fraud
High Rate Mortgages
Home Equity Credit Lines
How to Avoid Bankruptcy
Indiana Uniform Consumer Credit Code
Look Before you Lease
Mortgage Loans
Repossession
Reverse Mortgage Loans
Rule of 78s – What is it?
Scoring for Credit
Shopping for Credit
Using Credit Cards
Variable Rate Credit
What is a Budget?
What is the DFI?

Call our toll-free number or write to the address on the cover for a copy of any of the brochures listed or for further consumer credit information.



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COLLECTION OF OLD DEBTS



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